

Attorney Docket No. 2002B181B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Jin *et al.*

Serial No. 10/693,786

Filed: October 24, 2003

For: Polymerized Metallocene  
Catalyst Composition

Customer No.: 23455

§ Before the Examiner

§ James W. Pasterczyk

§ Group Art Unit No. 1755

§ Attorney Docket Number 2002B181B

§ Confirmation No.: 2340

§

§

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Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

**Affidavit Under 37 CFR 1.132****Attributing a Reference To the Applicant**

Dear Sir:

This Affidavit is submitted to offer a showing that Chinese Patent No. CN 1352204A to Jin *et al.* (Jin I), cited as prior art under 35 USC § 102(b) and 35 USC § 103(a) in the above referenced Patent Application are not statutory bars, and are Applicant's own work, and thus should be removed from consideration as references in the prosecution of the above referenced Patent Application.

According to MPEP 715.01(c), unless a reference is a statutory bar, a rejection based on a publication may be overcome by a showing that it was published either by applicant himself or on his behalf.

Jin I was published June 5, 2002. The instant application claims priority to 60/433,934 filed December 17, 2002 and 60/434,082 filed December 17, 2002. The instant application was filed less than one year prior to the publication of Jin I.

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Therefore, Jin I may not act as a statutory bar against the instant application since it fails to satisfy the 1-year time requirement under 35 USC §102(b.)

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According to MPEP §716.10, under certain circumstances an affidavit or declaration may be submitted which attempts to attribute an activity, reference or part of a reference to the applicant. If successful, the activity or the reference is no longer applicable. The statute requires an unequivocal declaration by applicant under 37 CFR § 1.132, that he conceived or invented the subject matter disclosed in the patent or published application. Disclaimer by the other patentee or other applicant of the published application should not be required. Jin I lists Guo-Xin Jin as an inventor. Likewise, Guo-Xin Jin is listed as an inventor of the instant application. Therefore, Applicant submits the Affidavit below.

AFFIDAVIT UNDER 37 CFR § 1.132

Under 37 CFR § 1.132: Affidavits or Declarations Traversing Rejections or Objections, when any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for must be by way of an oath or declaration under this section.

**Declaration by Guo-Xin Jin**

1. My name is Guo-Xin Jin

Mailing address: 10-501 Xin Shi Nan Road 533  
Shanghai, China 200434

2. I, Guo-Xin Jin, am a listed as an inventor of the present application and of Chinese Patent No. CN 1352204A.

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3. I, Guo-Xin Jin, make the unequivocal declaration that I conceived or invented the subject matter disclosed in Chinese Patent No. CN 1352204A.

August 16, 2006

Date \_\_\_\_\_

Geo. H. Fm

Guo-Xin Jin

In the event the fee is required for this affidavit, the USPTO is authorized to charge the fee to deposit account number 05-1712.

Accordingly, Applicant has met both requirements under MPEP 716.10 to have Jin I removed as a reference and thus, Applicants respectfully request that Jin I be removed.

Respectfully submitted,

8/28/06

Date \_\_\_\_\_

Respectfully submitted,

**Catherine L. Bell**  
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Registration No. 35,444

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